

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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JAMES J. ESLER,

Plaintiff,

v.

Case No. 05-C-251

SUBWAY,

Defendant.

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**ORDER DENYING MOTION FOR STAY**

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On July 19, 2005, judgment was entered in the above matter dismissing the plaintiff's case because plaintiff had failed to name the proper party. The dismissal was not on the merits, however, and was without prejudice. Plaintiff filed a notice of appeal from this court's judgment on July 21, 2005, and now seeks a stay of further proceedings in this court pending his appeal. Having dismissed plaintiff's action, there is no reason for a stay. The dismissal terminated the case unless and until plaintiff chose to file an amended complaint. He has not done so. Thus, there are no proceedings to stay. Accordingly, the motion is denied.

**SO ORDERED.**

Dated this 11th day of August, 2005.

s/ William C. Griesbach  
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William C. Griesbach  
United States District Judge